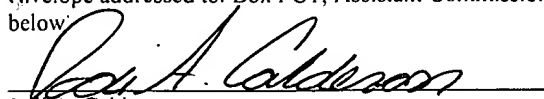


#2

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Box PCT, Assistant Commissioner for Patents, Washington, DC 20231 on the date indicated below:


Jodi A. Calderon

Date: 8-31-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. National Phase Patent Application No.: Unassigned

International Appl. No. PCT/US00/05427

Inventors: Brown et al.

Applicant: Hayes Brake, LLC & Textron Inc. Attorney Docket No.: 1240.009

Inventors: BROWN, Donald D., BUCKLEY, James A., WALTERMAN, Scott A.,
LANG, Joseph A. (deceased), REESE, Terry Lou, and CRISCUOLO,
James M.

Filing Date: 02 March 2000 (02.03.00)

Priority: U.S. Provisional Appl. Ser. No. 60/122,405; filed March 2, 1999

Title: *Brake System Having Hydraulic Accumulator and/or Combined Service Brake
and Park and Hold Brake*

RECEIVED
05 SEP 2001
Legal Staff
International Division

**PETITION UNDER 37 C.F.R. § 1.137(b) FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY**

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

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Dear Sir:

Applicant, through its undersigned representative, filed International Patent Application Serial No. PCT/US00/05427 on March 2, 2000, claiming priority on U.S. Provisional Patent Application Serial No. 60/122,405, filed March 2, 1999 and designating the United States for national phase entry. Applicants inadvertently failed to fulfill the requirements of 35 USC §371(c) in the time period set by 37 CFR §1.494(b)

and (c). As such, the above-captioned national phase application became abandoned 20 months and one day from the priority date or November 3, 2000 (see 37 CFR §1.494(g)).

Applicants, through their undersigned representative, hereby petition to revive the above-captioned national phase patent application on the grounds that said abandonment was unintentional.

37 CFR §1.137(b) permits revival of a patent application that becomes unintentionally abandoned through an applicant's failure to file a reply to an outstanding action or notice. It requires, *inter alia*, that the petition for revival must be accompanied by a reply to the outstanding action or notice. The USPTO construes a "reply" as any combination of materials "sufficient to have avoided abandonment, had it been timely filed." See MPEP §711.03(c). Where, as here, abandonment results from a failure to timely enter the national phase of an international patent application, the USPTO considers the "reply" requirement of 37 CFR §1.137(b) to be met through the filing of the materials required to fulfill the requirements of 35 USC §371(c). See, e.g., MPEP §1893.02. Those materials are enclosed, hence meeting the "reply" requirement of 37 CFR §1.137(b). The enclosed materials include:

- (a) a completed Form PTO-1390;
- (b) a copy of the International Application;
- (c) the filing fee in the amount of \$2,932;
- (d) a duly signed declaration;
- (e) an assignment and recordation cover sheet; and

- (f) Signature by Executrix on Behalf of Deceased Inventor (37 CFR §§ 1.42 and 1.43).

A petition fee in the amount of \$1,240 as set forth in 37 CFR §1.17(m) is enclosed.

Applicants hereby state that the entire delay in filing the required reply, from the November 2, 2000 due date for replying to an outstanding action by entering the national phase until the filing of a grantable petition under 37 CFR §1.137(b), was unintentional.

Because this application was filed after June 8, 1995, no terminal disclaimer or disclaimer fee are believed to be required.

In light of the foregoing, grant of this petition and revival of the above-captioned abandoned U.S. national phase patent application are believed to be in order and are respectfully requested. Should the Director have any remaining questions the attending to of which would expedite such action, he is requested to contact the undersigned at the telephone number appearing below.

No additional fees are believed to be payable at this time. Nevertheless, the Director is hereby authorized to charge payment of any other fees associated with this communication or credit any overpayment to Deposit Account No. 50-1170.

Respectfully submitted,



Timothy E. Newholm
Registration No. 34,4000

Date: August 31, 2001

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